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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,433	03/24/2006	Martin Oberhomburg	2003P01019WOUS	1983

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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
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NEW BERN, NC 28562

EXAMINER

PASCHALL, MARK H

ART UNIT	PAPER NUMBER
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3742

MAIL DATE	DELIVERY MODE
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04/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/573,433	Applicant(s) OBERHOMBURG, MARTIN	
	Examiner Mark H. Paschall	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 11,15,16 are rejected under 35 U.S.C. 102(e) as being anticipated by Sauter et al 6,967,314. Sauter et al teach a cooking device 4 having a display 60, a low power heating element and a high output heating element, see abstract, with a controller 58 which controls the heat output and the display, as claimed. Note that the display is construed to display a set of symbols, as broadly claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-14, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauter et al 6,967,314 in view of Stockley 2005/0000958. Sauter et al teach the claimed cooking controller except for defining the display as a seven segment display. It is submitted that the artisan would have found it obvious to use a seven digit or any multi-digit display for the display, depending on the end use of the device and the type of display desired. In addition, the patent to Stockley is applied for clearly teaching that a seven segment display is conventional in a cooking device and effects an efficient display of cooking data and sensed parameters. See paragraph 0032 in Stockley which teaches a seven segment display to display the cooking progress. In view of this teaching it would have been obvious to modify the Sauter et al system to use a display having seven segments, since such display has been shown effective to display cooking information, as broadly defined. As per claim 3 use of numerical symbols is set forth in Sauter et al and if modified as set forth above it is inherent that use of numerical display numerals is obvious for the artisan. Use of three transverse segments as per claim 14 is a routine matter of choice having no patentable bearing on the claimed device. As per claim 18 use of the controller to control a gas system is an obvious choice, the controller in Sauter et al as modified, capable of controlling wither a gas or electric heater.

Response to Arguments

Applicant's arguments filed 1-12-2009 have been fully considered but they are not persuasive. Applicants remarks on page 5 advance that, "none of these cited references provides any motivation to one of ordinary skill in the art to modify the display arrangements", of the claimed subject matter. It should be noted that claims 11,15 and 16 are anticipated, precluding any modification by other references. Note column 4, paragraph 2 in Sauter that describes, "power level display 77" and "time display 76", that construe two displays for a first continuous power level control and a second time control using less power than the first mode. See paragraph 4 in column 4 in Sauter.

Basically, claim 1 defines an apparatus having a cooking area , display and first and second cooking modes. These features are all anticipated by Sauter et al , as set forth above. With respect to the rejection under 35 USC 103, the patent to Stockley clearly teaches a seven segment five digit display as conventional. Note the Stockley does teach a five digit display having seven segments each, thereby meeting the claimed limitations. Note also that since a seven segment display is conventional, one of ordinary skill in cooking control would have found it well within the level of ordinary skill in the art to use as many digits as necessary, such choice dependent on the number of digits needed to display the temperature and power levels, yet undisclosed.

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The artisan would find the arrangement of the specific displays used as a routine choice dependent on the aesthetics and display desired by the end user and the type of cooking device used. The combination of the references used does not comprise hindsight as advanced by Applicant, but merely comprises combination of very conventional elements used in heating control and display of the process.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark H. Paschall whose telephone number is 571 272-4784. The examiner can normally be reached on 7am - 3pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark H Paschall
Primary Examiner
Art Unit 3742

Mhp

/Mark H Paschall/
Primary Examiner, Art Unit 3742

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